



County of Los Angeles CHIEF ADMINISTRATIVE OFFICE

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Chief Administrative Officer

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First District

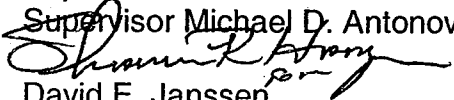
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Second District

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Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

June 4, 2007

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

WASHINGTON, D.C. UPDATE

H.R. 2206, the Federal Fiscal Year 2007 Supplemental Appropriations Bill

On May 25, 2007, the President signed H.R. 2206, the Federal Fiscal Year (FFY) 2007 Supplemental Appropriations bill into law (P.L. 110-28). Of major interest to the County, the bill includes a provision which would prohibit the Department of Health and Human Services (HHS) from finalizing or otherwise implementing a rule limiting Medicaid payments to government providers for one year after the bill's enactment. This one-year moratorium is especially important because on May 29, 2007, the Centers for Medicare and Medicaid Services (CMS) issued a final rule, which limits Medicaid payments to government providers, including public hospitals, to the cost of providing medical care to Medicaid recipients.

In the preamble to the final rule, published in the Federal Register, CMS stated that Medicaid waivers and demonstrations are subject to all provisions of the rule and that CMS will determine its impact on a waiver by waiver basis. The preamble also included a CMS response to commenters who raised concerns about the proposed rule's impact on California's Hospital Waiver safety net care pool, which funds services to uninsured persons who normally are not eligible for Medicaid. CMS responded that California's waiver "should not be impacted" and that it is "unlikely" that the waiver's budget

neutrality agreement would be adversely affected. CMS' rationale for this conclusion is in part that, under the waiver, uninsured costs are considered "eligible" under Medicaid and, therefore included in each public hospital's Medicaid cost base for purposes of the regulation. Although the preamble contains these assurances, the rule itself does not include language clarifying that the cost of providing medical care to the uninsured under a waiver can be counted as Medicaid eligible costs without adversely affecting a waiver's budget neutrality. The County Department of Health Services (DHS) is analyzing the potential consequences of the final rule during the term of the current waiver and thereafter. In any event, HHS cannot implement the rule for one year.

H.R. 2206 also imposes a one-year moratorium on the finalization or implementation of a proposed rule, published on May 23, 2007, which would provide that costs and payments associated with Graduate Medical Education (GME) programs are not expenditures for medical assistance that are reimbursable by Medicaid. This proposed rule, if implemented, would reduce Medicaid payments to teaching hospitals in California, including the County's hospitals. The County's DHS is analyzing and preparing comments on the proposed Medicaid GME payment rule, which are due to CMS by June 22, 2007.

FFY 2007 Ryan White HIV/AIDS Grants to Eligible Metropolitan Areas

HHS has announced FFY 2007 grant awards to eligible metropolitan areas, including Los Angeles County, under Part A of the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (P.L. 109-415), which reauthorized Ryan White programs. These Part A grants replace Title I grants under the previous Ryan White CARE Act. The County received a FFY 2007 formula grant of \$23,182,654 and a supplemental grant of \$9,552,345 for a combined total of \$32,734,999, which represents an increase of \$347,478 from FFY 2006. The County's funding increased even though five additional areas received grants and overall funding nationwide in FFY 2007 was about the same as in FFY 2006 due to the County's successful advocacy efforts in securing allocation formula changes, such as the inclusion of code-based HIV cases, which benefit the County. In addition, our percentage share of all supplemental grant funds increased because our competitive grant application was rated higher than last year.

In FFY 2006, the County also received \$2.5 million in Title I funding under the Minority AIDS Initiative (MAI). This year, MAI grant awards are not expected to be announced until late July because of the relatively late May 31, 2007 deadline for applications under the new MAI competitive grant application process. The FFY 2007 grant period is expected to begin in August 2007.

H.R. 916: Prosecutor and Public Defender Student Loan Repayments

The House passed, 341 to 73, H.R. 916 (Scott, D-GA), a County-supported prosecutor and public defender student loan repayment bill on May 14, 2007. Under the bill,

borrowers who commit to work for at least three years as prosecutors or public defenders would receive student loan debt repayments of up to \$10,000 per year, subject to a maximum lifetime limit of \$60,000. H.R. 916 authorizes \$25 million a year for six fiscal years, beginning in FFY 2008. A similar Senate bill, S. 442 (Durbin, D-IL), which is cosponsored by Senators Feinstein and Boxer, was reported by the Senate Judiciary Committee in April, but has not yet been scheduled for Senate floor action.

Pursuit of County Position on Legislation

Food Stamp Reauthorization: Representative Baca (D-CA), who chairs the House Agriculture Subcommittee on Department Operations, Oversight, Nutrition, and Forestry, has indicated that his subcommittee will mark up Food Stamp reauthorization language in early June, which is expected to be incorporated into a comprehensive farm bill, which the full committee hopes to report prior to the Independence Day recess.

The Department of Public Social Services (DPSS) believes that the following kinds of Food Stamp reauthorization changes would strengthen the program and increase nutrition support for low-income persons:

- Restore Food Stamp benefits to all lawful permanent residents;
- Increase benefit levels and resource limits;
- Increase the standard deduction and the deduction of child care costs to align more closely to current market rates, which are used to determine financial need;
- Streamline Food Stamp administration and reduce administrative costs by simplifying its complex work requirements, eligibility determination requirements, and benefit calculation methodologies and by allowing the Temporary Assistance for Needy Families' (TANF) definition of household to be used; and
- Reform its quality control (QC) system by setting more reasonable error rate targets, placing greater emphasis on rewarding good performance rather than penalizing poor performance, and allowing states to reinvest any QC fiscal penalties to improve program administration in lieu of paying penalties.

Based on policies in the County's Federal Legislative Agenda supporting reauthorization of the Food Stamp Program and proposals which would simplify program simplification, restore benefits to legal non-citizens with deeming provisions for sponsored immigrants, improve coordination between the Food Stamp and TANF programs, and reform its QC system, **our Washington, D.C. advocates will support Food Stamp reauthorization legislation and the program changes identified by DPSS.**

Services for Ending Long-Term Homelessness Act: S. 593 (Burr, R-NC), the Services for Ending Long-Term Homelessness Act (SELHA), would establish a grant program to provide services to end chronic homelessness, effective FFY 2008. The bill would authorize supportive services, such as mental health and substance abuse treatment, treatment for co-occurring disorders, health education, money management and life-skills training, and parental skills and family support.

The Department of Mental Health (DMH) and Community Development Commission (CDC) support S. 593 because the bill would close services gaps and expand services for thousands of chronically homeless, mentally ill persons in Los Angeles County. The Federal Agenda includes policies to support proposals to fund a national plan to end homelessness and provide additional resources for meeting the housing and related supportive service needs of special populations, including elderly, disabled, and mentally ill persons. **Therefore, the County's Washington, D.C. advocates will support S. 593 or similar legislation.** S. 593 was introduced on February 14, 2007, and was referred to the Senate Health, Education, Labor, and Pensions Committee, which has not scheduled any hearings on the bill.

Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH): H.R. 840 (Carson-D-IN) would establish the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH), which would reauthorize and consolidate all but one of the McKinney-Vento Homeless Act programs into one grant program. The bill also would authorize \$2.5 billion in FFY 2008 and such sums as may be necessary in succeeding fiscal years, subject to available appropriations. The bill also includes provisions which would:

- Align the Department of Housing and Urban Development's (HUD) definition of homelessness with the definition used by other Federal agencies by including families who are living in shared housing, a motel, or hotel due to lack of adequate alternatives;
- Require HUD to release its annual Notice of Funding Availability (NOFA) no later than three months after enactment of each year's appropriations bill and award grants no later than five months after the NOFA's release; and
- Reduce administrative funding from eight percent to six percent for housing authorities.

The Community Development Commission (CDC) indicates that H.R. 840 would expand housing and homeless prevention services for County residents and speed up the release of grant funding. CDC, however, opposes the reduced administrative funding because it would hinder its ability to sustain program operations and effective program administration.

Based on policies in the County's Federal Legislative Agenda to support the reauthorization of the McKinney-Vento Homeless Assistance Act, increase funding for

homeless services, and proposals to maintain or increase funding to public housing authorities for administration, **our Washington, D.C. advocates will support H.R. 840 or similar legislation which would reauthorize McKinney-Vento Act programs, increase funding for homeless services, and oppose proposals which would decrease administrative funding.** The bill was introduced on February 6, 2007, and referred to the House Financial Services Committee, which has not scheduled any hearings on the bill.

Medicaid Citizenship Documentation Requirements: The Deficit Reduction Act (DRA) of 2005 (P.L. 109-163) included a new requirement that U.S. citizens present proof of citizenship when they apply for or seek to renew their Medicaid eligibility for the first time. Under the DRA and as amended by the Tax Relief and Health Care Act of 2006 (P.L. 109-432), which was enacted on December 20, 2006, foster children, Supplemental Security Income, Disability Insurance, and Medicare recipients are exempt from the documentation requirements.

The DRA's citizenship documentation requirements are more difficult to meet and onerous than those required of legal immigrants to prove satisfactory immigration status for Medicaid eligibility. Citizen Medicaid applicants, who lack acceptable citizenship documentation (e.g., a certified birth certificate, U.S. passport, or certificate of citizenship) must obtain and submit such documentation to receive any Medicaid benefits. In contrast, Medicaid eligibility for legal immigrants, including those who lost their immigration documents, may be established using the automated System for Alien Verification for Entitlements, and Federal law provides that Medicaid benefits may not be delayed, denied, or terminated pending verification of immigration status. Moreover, under the interim final rule, which implemented the DRA's citizenship documentation requirements, citizen Medicaid applicants are not even eligible for emergency Medicaid services until they present proof of citizenship.

Two identical bills, S. 909 (Bingaman, D-NM) and H.R. 1848 (Brown, D-FL), have been introduced, which would make the DRA's Medicaid citizenship documentation requirements optional for states, retroactive to the DRA's July 1, 2006 effective date. The bills also include a provision, which would allow citizens to receive Medicaid benefits pending verification of citizenship, similar to the same protections afforded to legal immigrants under current law.

Both bills would protect the State of California from a major potential loss of Federal Medicaid revenue. Because the State has not yet implemented the new citizenship documentation requirements, the Federal government could ask the State to repay Federal Medicaid payments made on behalf of citizens who did not submit proof of citizenship on or after the DRA's effective date of July 1, 2006. We understand that the State plans to release an All County Letter by the end of the month, which would instruct counties to implement the Medicaid citizenship documentation requirements, beginning on August 1, 2007. DPSS and other county welfare departments are

concerned about the added cost of administering these requirements. The Governor's May revisions include more than \$50 million to cover the added costs in 2007-08.

The County's DHS and other health providers also are concerned that the DRA's citizenship documentation will make it more difficult for U.S. citizens to qualify for Medicaid, resulting in a loss of Medicaid reimbursement, including for emergency care provided to otherwise eligible citizens. Any loss of Medicaid revenue would increase the County's unreimbursed health care costs. A number of other states already have reported significant decreases in Medicaid enrollment due to the new citizenship documentation requirements.

Based on policies in the County's Federal Legislative Agenda to support proposals which would expand Medicaid coverage to more persons and oppose proposals which would increase the County's unreimbursed costs of providing and administering health care costs, **our Washington, D.C. advocates will support S. 909, H.R. 1848, or similar legislation which would make it optional for states to apply the DRA's Medicaid citizenship documentation requirements and which would allow citizens to receive Medicaid benefits pending verification of citizenship.**

We will continue to keep you advised.

DEJ:GK
MAL:MT:acn

c: All Department Heads
Legislative Strategist